

AN ACT

ENTITLED, An Act to revise the compensation considered when computing the final average salary of a member of the South Dakota Retirement System and to repeal certain rule-making authority.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That subdivision (34) of § 3-12-47 be amended to read as follows:

(34) "Final compensation," the highest average annual compensation earned by a member during any period of twelve consecutive calendar quarters during the member's last forty calendar quarters of membership in the system including time during which the member was not a member but for which he has received credit under the system. If the compensation received in the last calendar quarter considered exceeds a set percentage of the amount in the highest previous calendar quarter, or if the average compensation received in the last four calendar quarters exceeds a set percentage of the amount earned in the highest calendar quarter prior to the last four calendar quarters considered, only the lesser amount shall be considered and the excess shall be excluded in the computation of final compensation. Those respective set percentages are as follows:

- (a) On or before June 30, 2004, one hundred twenty-five percent and one hundred fifteen percent;
- (b) Between July 1, 2004, and June 30, 2005, one hundred fifteen and one hundred ten percent; and
- (c) On or after July 1, 2005, one hundred five percent and one hundred five percent.

For purposes of determining final compensation periods for service separated by breaks, the service may be aggregated to constitute a period of twelve consecutive calendar quarters. The term calendar quarter means a period of three calendar months ending March thirty-first, June thirtieth, September thirtieth or December thirty-first of any year;

Section 2. That subdivision (20) of § 3-12-47 be amended to read as follows:

(20) "Compensation," gross wages paid to a member by the employer for personal services rendered during the period considered as credited service:

- (a) Compensation includes amounts reported as wages, tips and other compensation on the member's federal form W-2 wage and tax statement, except as otherwise excluded in this subdivision; the amount of member contributions made by an employer on or after July 1, 1984, pursuant to § 3-12-71; any amount contributed to a member's individual retirement plan which meets the requirements of section 401, 403, 408, or 457 of the Internal Revenue Code of 1986, as amended; and any amount contributed to a plan described in section 125 of the Internal Revenue Code of 1986, as amended; and any amount contributed to the system pursuant to § 3-12-83.2 in accord with § 414(h)(2) of the Internal Revenue Code as in effect on January 1, 1996;
- (b) Compensation does not include travel, meals, lodging, moving or any other expenses incidental to an employer's business which is reimbursed by the employer; lump sum payments for sick leave; lump sum payments for annual leave; payments for insurance coverage of any kind or any other employee benefit by an employer on behalf of an employee or an employee and dependents; any amount paid in a one time lump sum payment or over a period of time and based on or attributable to retirement or an agreement to retire in the future; payments made upon dismissal or severance; worker's compensation payments; and payments contingent on a member terminating employment at a specified time in the future paid or payable in a lump sum or over a period of time;
- (c) Any compensation in excess of the limits established in § 401(a)(17) of the Internal

Revenue Code as in effect on January 1, 2002, shall be disregarded for purposes of contributions or for benefit calculations under the system. However, the limit does not apply to compensation earned by a member if the member was employed by a participating unit on or before June 30, 1996;

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I certify that the attached Act
originated in the

HOUSE as Bill No. 1032

Chief Clerk

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Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1032

File No. _____

Chapter No. _____

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Received at this Executive Office
this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

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The attached Act is hereby
approved this _____ day of
_____, A.D., 20____

Governor

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STATE OF SOUTH DAKOTA,
ss.

Office of the Secretary of State

Filed _____, 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State